

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KENNETH COLLINS,

Plaintiff,

v.

UNIVERSITY PRESS OF MISSISSIPPI, and
PHOTOFEST, INC.,

Defendants.

Civil Action No. 07-CV-7067 (SHS)

ANSWER

Filed by ECF

Defendant Photofest, Inc. ("Defendant"), by its undersigned counsel, as and for its Answer to the Complaint dated August 8, 2007 filed herein by Plaintiff Kenneth Collins ("Plaintiff"), hereby alleges as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations.
2. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations.
3. Admits.
4. Contains only allegations of law which require no response.
5. Denies that Photofest has committed tortious acts within this District.
6. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations.
7. Denies that Photofest has committed acts of copyright infringement in this District.

8. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations.

9. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations.

10. Denies, except admits that in September 2006, defendant University Press published a book edited by William Rodney Allen entitled The Coen Brothers Interviews.

11. Denies, except admits that Photofest is credited as the source of the photographs.

12. Denies that Photofest is a business that sells and licenses photographs, but admits that Photofest expressly does not own copyrights.

13. Admits.

14. Defendant re-alleges its responses to paragraphs 1 through 13.

15. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations.

16. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations.

17. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations.

18. Denies.

19. Admits.

20. Denies.

21. Denies.

22. Denies.

23. Defendant re-alleges its responses to paragraphs 1 through 22.

24. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations.

25. Denies.

26. Denies.

27. Denies.

28. Denies.

29. Denies.

30. Denies.

31. Admits.

32. Denies.

33. Denies.

34. Denies.

DEFENSES

Defendant's defenses include the following:

First

Plaintiff's complaint fails to set forth any claim upon which relief may be granted.

Second

If and to the extent that Defendant is found to have infringed Plaintiff's alleged copyright, Defendant's use constitutes fair use.

Third

If and to the extent that Defendant is found to have infringed Plaintiff's alleged copyright, Defendant was an innocent copyright infringer.

Fourth

Plaintiff is not entitled to injunctive relief as monetary relief sufficiently may remedy any actionable harm alleged.

Fifth

The Complaint fails to state facts sufficient for Plaintiff to recover punitive damages.

Sixth

If the allegations in the Complaint are true, which Defendant denies, then any damages, if any, purportedly suffered by Plaintiff were not proximately caused by Defendant's alleged conduct.

Seventh

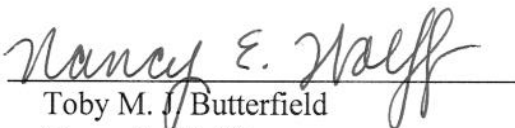
Defendant reserves the right to amend their answer and defenses and/or to assert additional defenses upon completion of investigation and discovery.

WHEREFORE, Defendant respectfully requests the following relief:

- (a) that the Complaint be dismissed in its entirety and judgment be entered thereupon in favor of Defendant;
- (b) that Defendant be awarded costs and attorneys' fees as a prevailing party under 17 U.S.C. § 505; and
- (c) all such other and further relief as is just and proper.

Dated: New York, New York
November 12, 2007

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